

## REMARKS

This is a full and timely response to the non-final Office Action mailed on February 14, 2003 by the United States Patent and Trademark Office. The Examiner rejected claims 1-19. Claim 13 has been cosmetically amended for reasons other than the Examiner's requirement. Claim 20 has been added to more completely claim the subject matter of the specification. After this amendment and traverse, claims 1-20 remain in this application. Reconsideration is respectfully requested.

## I. TRAVERSE OF REJECTIONS UNDER 35 U.S.C. 103(a)

The Examiner has rejected claims 1-19, including independent claims 1 and 13 as being unpatentable over Hogg, et al. (US Patent Number 6,104,926) (hereinafter "Hogg") in view of Martin et al. (U.S. patent Number 6,061,562) (hereinafter "Martin"). Applicants respectfully traverse the rejections of claims 1-19.

Independent claim 1 relates to a method of maintaining a terrestrial cell site handoff list for an airborne cellular system, and recites, *inter alia*, "calculating a list of viable handoff terrestrial cell site candidates based on" various data that is maintained and determined (App. Claim 1, lines 10-11). Independent claim 13 relates to an apparatus for calculating a list of terrestrial handoff sites that includes a receiver and a database, and recites, *inter alia*, "a processor coupled to the receiver and operable to calculate the handoff candidate list based on" information received by the receiver and information stored in the database. (App. Claim 13, lines 7-9)

Hogg relates to a system and method for efficient and effective usage of communications channels associated with telephonic devices employed on airplanes. It is submitted that Hogg fails to teach or suggest at least the above noted feature recited in independent claims 1 and 13. Namely, Hogg fails to teach or suggest "calculating a list of viable handoff terrestrial cell site candidates based on" various data, and a processor that performs this function. Instead, Applicant respectfully submits that Hogg discloses a ground station (58) that scans traffic service channel (22) carrier frequencies that are assigned to its radio base station (36) and determines whether each traffic service channel (22) carrier

frequency is in use. The ground radio unit (58) then constructs a free channel list containing all free traffic service channel (22) carrier frequencies to which ground radios (58) have been tuned. (Hogg, Col. 8, lines 61-66). Constructing a list of channels that are unused based upon a scan of the channels assigned to a base station is completely inapposite to the above-noted features recited in independent claims 1 and 13.

Martin relates to and discloses a broadband communications system using an aircraft as an airborne switching node between Earth-fixed stations (Martin, Column 2, lines 26-32). However, Martin is not understood to make up for at least the above-noted deficiency of Hogg, as regards independent claims 1 and 13, because Martin does not disclose, teach, or suggest "calculating a list of handoff candidates based on maintained and determined data (or calculating any other list, for that matter), nor a processor for performing such calculations. Applicant respectfully submits that Martin discloses that "A packet switch in communication equipment 156 compensates for beam handoff by maintaining an association between beams 40 and cells 42 serviced by beams 40" (Martin, column 8, lines 33-35). Hence, Martin's approach of compensating for handoff using a packet switch relates to the conventional method to which Applicant contrasts the method and apparatus encompassed by independent claims 1 and 13. (See App., page 1, line 32 and page 2, lines 1-5 and 27-32).

Accordingly, neither Martin nor Hogg, nor the combination of Martin and Hogg teach or suggest all elements of Applicant's independent claims 1 and 13 and so Applicant respectfully submits that a *prima facie* case of obviousness cannot lie. Applicant respectfully requests that the Examiner withdraw the rejection to claim 1 and to dependent claims 2-12 which depend from claim 1. Applicant further respectfully requests the Examiner allow claim 20 as depending from allowable independent claim 1. Applicant respectfully requests that the Examiner withdraw the rejection to claim 13 and to dependent claims 14-19 which depend from claim 13. The dependent claims are also submitted to be allowable as reciting features which are patentable in their own right. Individual consideration of the dependent claims is respectfully solicited.

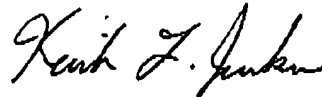
The other art of record is also not understood to disclose or suggest the inventive concept of the present invention as defined by the claims.

**IV. CONCLUSION**

It is respectfully submitted that the above-identified application, as amended, is now in condition for allowance and such allowance is therefore earnestly requested by the Applicant. Should the Examiner have any questions or wish to further discuss the above-identified patent application, the Applicant requests that the Examiner contact the undersigned at (480) 385-5060.

If for some reason the Applicant has not requested a sufficient extension and/or have not paid a sufficient fee for this response and/or for the extension necessary to prevent abandonment of this application, please consider this as a request for an extension for the required time period and/or authorization to charge Deposit Account No. 50-2091 for any fee which may be due.

Respectfully submitted,



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Dated 5/13/03

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